

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

MODEL ORDINANCE FOR NON-METALLIC MINING RECLAMATION

TABLE OF CONTENTS

PART I - GENERAL

SECTION 1	Title.
SECTION 2	Purpose.
SECTION 3	Statutory Authority.
SECTION 4	Restrictions Adopted Under Other Authority.
SECTION 5	Interpretation.
SECTION 6	Severability.
SECTION 7	Applicability. 7.10 Overall Applicability. 7.20 Exemptions.
SECTION 8	Administration.
SECTION 9	Effective Date.
SECTION 10	Definitions.

PART II - STANDARDS

SECTION 11	Standards.
------------	-------------------

PART III - PERMITTING

SECTION 12	Nonmetallic Mining Reclamation Permit Application. 12.10 Required Submittal. 12.20 Existing Mines. 12.30 New Mines
SECTION 13	Reclamation Plan. 13.10 Reclamation Plan Requirements. 13.20 Existing Mines. 13.30 New Mines. 13.40 Existing Plans and Approvals. 13.50 Approval of Reclamation Plan.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

SECTION 14	Financial Assurance. 14.10 Financial Assurance Requirements. 14.20 Existing Mines. 14.30 New Mines. 14.40 Public Nonmetallic Mining.
SECTION 15	Public Notice and Right of Hearing. 15.10 New Mines. 15.20 Existing Mines. 15.30 Local Transportation-Related Mines.
SECTION 16	Issuance of a Nonmetallic Mining Reclamation Permit. 16.10 Permit Required. 16.20 Automatic Permit for Existing Mines. 16.30 Evaluation of Follow-Up Submittals for Existing Mines. 16.40 Permit Issuance for New Mines. 16.50 Automatic Permitting for Local Transportation-Related Mines. 16.60 Expedited Review. 16.70 Permit Conditions.
SECTION 17	Permit Denial.
SECTION 18	Alternative Requirements. 18.10 Scope of Alternative Requirements Approvable. 18.20 Procedures. 18.30 Transmittal of Decision on Request for Alternate Requirements. 18.40 Notice to Wisconsin Department of Natural Resources.
SECTION 19	Permit Duration.
SECTION 20	Permit Transfer.
SECTION 21	Previously Permitted Sites.
SECTION 22	Review.

PART IV - ADMINISTRATION

SECTION 23	Permit Modification. 23.10 By <u>[Name of County or Municipality]</u> . 23.20 At the Operator's Option. 23.30 Required by the Operator. 23.40 Review.
SECTION 24	Permit Suspension or Revocation. 24.10 Grounds. 24.20 Procedures. 24.30 Consequences.
SECTION 25	Annual Operator Reporting. 25.10 Contents and Deadline. 25.20 Inspection in Lieu of Report. 25.30 Retention of Annual Reports.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

- SECTION 26 **Plan Review Fees.**
 26.10 Amount and Applicability.
 26.20 Expedited Plan Review Fee.
 26.30 Relation to Annual Fee.
- SECTION 27 **Annual Fees.**
 27.10 Areas Subject to Fees, Procedures and Deadline.
 27.20 Wisconsin Department of Natural Resources Share of Fee.
 27.30 [Name of County or Municipality]'s Share of Fee.
 27.40 [Optional] Reduced Fee for Inactive Mines.
 27.50 [May be Needed] Documentation of County or Municipality's Share of Fee.
- SECTION 28 **Regulatory Reporting and Documentation.**
 28.10 Reporting.
 28.20 Documentation.
- SECTION 29 **Completed Reclamation - Reporting, Certification and Effect.**
 29.10 Reporting.
 29.20 Reporting of Interim Reclamation.
 29.30 Certification of Completed Reclamation.
 29.40 Effect of Completed Reclamation.
 29.50 Effect of Inaction Following Report of Completed Reclamation.
- SECTION 30 **Permit Termination.**

PART V - ENFORCEMENT

- SECTION 31 **Right of Entry and Inspection.**
- SECTION 32 **Orders and Citations.**
 32.10 Enforcement Orders.
 32.20 Special Orders.
 32.30 Review of Orders
 32.40 [Optional, Where Authority Exists] Citations.
 32.50 Enforcement
- SECTION 33 **Penalties.**

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

MODEL ORDINANCE FOR NON-METALLIC MINING RECLAMATION

[NOTE: All **underlined, bracketed bold** sections require filling in a name, address, governmental body, amount of money or other information. **Shaded** text shows comments or explanations. In this model ordinance, the term “municipality” is meant to include **towns** as well as cities and villages. The detailed provisions of Ch. NR 135, Wisconsin Administrative Code may be found at the Wisconsin Revisor of Statutes’ website at “<http://www.legis.state.wi.us/rsb/code/nr/nr135.pdf>”]

PART I - GENERAL

SECTION 1 **1.00 Title.** Nonmetallic mining reclamation ordinance for the _____ **[Pick one: county, city, village or town]** of **[name]**.

SECTION 2 **2.00 Purpose.** The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in **[name of county or municipality]** after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.

SECTION 3 **3.00 Statutory Authority.** This chapter is adopted under authority of **[pick one: - for counties/ Section 295.13(1), Wisconsin Statutes for cities, villages and towns/ Section 295.14(1), Wisconsin Statutes]**, Section NR 135.32, Wisconsin Administrative Code, and **[pick one: - for villages/ Section 61.34(1), Wisconsin Statutes - for towns/ Section 60.22, Wisconsin Statutes - for cities/ Section 62.11(3), Wisconsin Statutes - for counties/ Section 59.51, Wisconsin Statutes]****[optional - cite any other applicable authority for the county or municipality to adopt ordinances of this nature]**.

SECTION 4 **4.00 Restrictions Adopted Under Other Authority.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

SECTION 5 **5.00 Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

Explanatory Note to authors of ordinances regarding Sections 4 and 5: Consistent with s. 295.12(1)(a), Stats, a county or municipal ordinance enacted pursuant to Ch. NR 135, Wis. Adm. Code is the method of putting in place uniform statewide standards for nonmetallic mining reclamation. Once these reclamation programs are set up, reclamation should not be required or otherwise regulated under zoning or other controls. Zoning or other approvals finalized before NR 135-authorized reclamation programs (like ones using this model ordinance as a guide) can continue, and are contemplated by s. NR 135.21(1)(d), Wis. Adm. Code. Future zoning approvals or conditional use permits may be used to regulate other aspects of nonmetallic mining such as siting or operations, but this chapter pre-empts future zoning approvals or conditional use permits as a means to establish reclamation requirements.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

SECTION 6 **6.00 Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

SECTION 7 **7.00 Applicability.**

7.10 Overall Applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within the **[name of county or municipality]** operating on or commencing to operate after August 1st, 2001 and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in **sub. 7.20 add for county ordinances;** and except for nonmetallic mining sites located in a city, village or town within **[name of county]** that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

7.20 Exemptions. This chapter does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

SECTION 8 **8.00 Administration.** The provisions of this chapter shall be administered by **[insert name of municipal or county agency or department administering the program]**.

SECTION 9 **9.00 Effective Date.** The provisions of this chapter shall take effect on June 1st, 2001.

Note: The June 1, 2000 effective date is required by s. NR 135.32(1) for counties, as recommended by the NR 135 Technical Advisory Committee.

SECTION 10 **10.00 Definitions.** All definitions for the purposes of this chapter are those contained in Section NR 135.03, Wisconsin Administrative Code. **Optional: [Definitions of terms not in NR 135.03 if needed.]**

PART II - STANDARDS

SECTION 11 **11.00 Standards.** All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

PART III - PERMITTING

SECTION 12 **12.00 Nonmetallic Mining Reclamation Permit Application.**

12.10 Required Submittal. The operator of all nonmetallic mining sites that operate on or after August 1st, 2001 shall apply for a reclamation permit from **[name of county or municipality]**. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18(3), Wisconsin Administrative Code.

12.20 Existing Mines. The operator of any existing nonmetallic mine shall apply for an automatic reclamation permit from **[name of county or municipality]** by providing the information required by Section NR 135.18(1), Wisconsin Administrative Code and the submittals required under **sub. 12.10** no later than August 1st, 2001 to **[insert name of municipal or county agency or department]**

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

administering the program optional: [specify administering agency location for delivery, address, or requirement of certified or registered mailing].

12.30 New Mines The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1st, 2001 or which has not applied for an automatic reclamation permit pursuant to **sub. 12.20** shall submit an application that meets the requirements of Sections NR 135.18(2), Wisconsin Administrative Code and the submittals required under **sub. 12.10** to [insert name of municipal or county agency or department administering the program] optional: [specify administering agency location for delivery, address, or requirement of certified or registered mailing] prior to beginning operations. This application shall be accompanied by a plan review fee as specified in s. 26.

SECTION 13

13.00 Reclamation Plan.

13.10 Reclamation Plan Requirements. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

13.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with **sub. 12.20** shall submit the reclamation plan required by **sub. 13.10** by [deadline - a date to be established by the county or municipality, between one and 3 years after submittal of the application for an automatic permit.] The deadline may be a date certain, established in the ordinance, for all or certain classes of mines, or it may be determined after the applications per **sub. 12.20** have been received, based on consideration of:

- the time needed for the mine operator to prepare the reclamation plan or amend an existing plan,
- the needs of [name of county or municipality] to distribute workload in reviewing reclamation plans, and
- other relevant factors.

Note: The above options are presented to give the county or municipality maximum flexibility in scheduling its evaluation of follow-up submittals by mines issued automatic reclamation permits. Other approaches may be also be chosen by a county or municipality to meet its obligation, under s. NR 135.21(1)(f), Wis. Adm. Code, to act on complete follow-up submittals within 30 days of receiving them. In exercising this scheduling discretion, however, a county or municipality needs to comply with the requirement in s. 295.12(3)(dm), Stats. that the follow-up submittals must be provided between one and 3 years after the date of application for the automatic permit.

13.30 New Mines. The operator of any nonmetallic mining site that applies for a permit in conformance with **sub. 12.30** shall submit the reclamation plan required by **sub. 13.10** with its application for a reclamation permit.

13.40 Existing Plans and Approvals. To avoid duplication of effort, the reclamation plan required by **sub. 13.10** may, by reference, incorporate existing plans or materials that meet the requirements of this chapter. Previous approvals for nonmetallic mining sites that apply in accordance with **sub. 12.20** shall satisfy the requirements of **sub. 13.10** if they meet the requirements of Section NR 135.21(1)(d), Wisconsin Administrative Code.

13.50 Approval of Reclamation Plan. [Name of County or Municipality] shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to **sub. 16.20** for existing mines and **sub. 16.40** for new mines. Conditional approvals of reclamation plans shall be made according to **sub. 16.70**, and denials of reclamation plans made according to s. 17. The operator shall keep a copy of the reclamation plan required by this section,

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

once approved by [name of county or municipality] under this chapter, at the mine site or, if not practicable, at the operator's nearest office or place of business.

SECTION 14

14.00 Financial Assurance.

14.10 Financial Assurance Requirements. All operators of nonmetallic mining sites in [name of county or municipality] shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section 135.40, Wisconsin Administrative Code.

14.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with **sub. 12.20** shall submit the financial assurance required by **sub. 14.10** by [deadline - a date to be established by the county or municipality, between one and 3 years after submittal of the application for an automatic permit.] The deadline may be a date certain, established in the ordinance, for all or certain classes of mines, or it may be determined after the applications per **sub. 12.20** have been received, based on consideration of:

- the time needed for the mine operator to prepare the reclamation plan or amend an existing plan,
- the needs of [name of county or municipality] to distribute workload in reviewing reclamation plans, and
- other relevant factors.

Note: The above options are presented to give the county or municipality maximum flexibility in scheduling its evaluation of follow-up submittals by mines issued automatic reclamation permits. Other approaches may be also be chosen by a county or municipality to meet its obligation, under s. NR 135.21(1)(f), Wis. Adm. Code, to act on complete follow-up submittals within 30 days of receiving them. In exercising this scheduling discretion, however, a county or municipality needs to comply with the requirement in s. 295.12(3)(dm), Stats. that the follow-up submittals must be provided between one and 3 years after the date of application for the automatic permit.

14.30 New Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with **sub. 12.30** shall submit the proof of financial assurance required by **sub. 14.10** as specified in the reclamation permit issued to it under this chapter.

14.40 Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

SECTION 15

15.00 Public Notice and Right of Hearing.

15.10 New Mines. [Name of county or municipality] shall provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies **sub. 12.30** is received.

15.20 Existing Mines. No public notice or informational hearing is required on an application for a reclamation permit for an existing mine that satisfies **sub. 12.20**, except as provided in Section NR 135.20(4)(c), Wisconsin Administrative Code.

15.30 Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to **sub. 16.50**.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

SECTION 16

16.00 Issuance of a Nonmetallic Mining Reclamation Permit.

16.10 Permit Required. Every operator of a nonmetallic mining site in [name of county or municipality] who engages in or plans to engage in nonmetallic mining after September 1st, 2001 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in **sub 7.20**. No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1st, 2001 without a reclamation permit issued pursuant to this chapter.

16.20 Automatic Permit for Existing Mines. [Name of county or municipality] shall issue an automatic reclamation permit to the operator of any nonmetallic mining that submits an application meeting the requirements of **sub. 12.20** as set forth in Section 135.21(1), Wisconsin Administrative Code. The automatic permit shall be issued within 30 days of such application.

16.30 Evaluation of Follow-Up Submittals for Existing Mines. Mines covered by automatic permits issued under **sub. 16.20** shall submit a reclamation plan in accordance with **sub. 13.20** and proof of financial assurance in accordance with **sub. 14.20** by the deadlines established in those subsections [may want to repeat the deadlines in these subsections – in text of this subsection or in notes]. Reasonable extensions to these deadlines may be granted in writing by [name of county or municipality] where extenuating circumstances exist. The follow-up submittals required by this subsection shall be evaluated using the criteria and procedures in Sections NR 135.21(1)(d), (e) and (f).

16.40 Permit Issuance for New Mines. Applications for reclamation permits for nonmetallic mining sites not permitted under **sub 16.20** that satisfy **sub. 12.30** shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with **sub. 13.30**, and provision by the applicant of financial assurance that conforms with **sub. 14.30** payable to [name of county or municipality] prior to beginning mining.

16.50 Automatic Permit for Local Transportation-Related Mines. [Name of county or municipality] shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(b) through (j), Wisconsin Administrative Code.

Note: A reclamation permit is not required under this subsection for nonmetallic mine sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by s. 295.16(1)(c), Stats. Plan review fees may not be assessed for local transportation-related mines permitted under this subsection, and the county or municipality may not assess them an annual fee under s. 27 that is greater than allowed by s. NR 135.23(1)(f), Wis. Adm. Code.

16.60 Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in **s. 25.20**. The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to **s. 15**.

16.70 Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21(3), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

SECTION 17

17.00 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

SECTION 18

18.00 Alternative Requirements.

18.10 Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in **s. 11.00**. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

18.20 Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in **sub. 18.10** shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to [name and address of body that county or municipality that county designates to make these decisions]. [Set out procedures the regulatory authority chooses for evaluating requests for alternative requirements - e.g. quorum, right to present, comment, type of vote needed [eg majority, two-thirds], deadlines for actions, any review, etc., and other requirements in accordance with applicable county or municipal ordinance/law].

Note: Procedures that a county or municipality may wish to consider for review of alternate requirements include a municipal zoning Board of Appeals appointed under s. 62.23(7)(e), Stats. for cities, a village equivalent body constituted under s. 61.35, Stats., a county Board of Adjustment appointed pursuant to s. 59.694, Stats, or a town Board of Adjustment appointed pursuant to s. 60.65, Stats.. The county or municipality should, however, check with its legal counsel to make sure the body so designated has the necessary legal authority to make this review. Examples also exist in ss. 7.3 and 7.4 of the DNR's 1991 Model Floodplain Zoning Ordinance and ss. 6.6 and 6.665 of the DNR's 1994 Model Floodplain and Shoreland-Wetland Zoning Ordinance for Cities or Villages. Other bodies and procedures may, however, be selected by the regulatory authority, so long as they can carry out the functions specified in s. NR 135.26, Wis. Adm. Code and have authority for this review under Wisconsin law.

18.30 Transmittal of Decision on Request for Alternate Requirements. The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

18.40 Notice to Wisconsin Department of Natural Resources. [Name of county or municipality] shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code

SECTION 19

19.00 Permit Duration. A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to **sub. 32.20**, or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

SECTION 20

20.00 Permit Transfer. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

SECTION 21

21.00 Previously Permitted Sites. For counties only: For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of [name of county] the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified by [name of county] pursuant to **sub. 23.10**. This could happen if, for example, a municipality's program was terminated by the municipality or revoked by the Department - in such cases nonmetallic mine sites would revert to the county program.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

SECTION 22 **22.00 Review.** Any permitting decision or action made by [name of county or municipality] under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

PART IV - ADMINISTRATION

SECTION 23 **23.00 Permit Modification.**

23.10 By [Name of County or Municipality]. A nonmetallic mining reclamation permit issued under this chapter may be modified by [name of county or municipality] if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this chapter. Such modification shall be by an order conforming with the procedures in s. 32 and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

23.20 At the Operator's Option. If operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to [name of county or municipal agency that administers the program] optional: at [name and location of administering agency]. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

23.30 Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

23.40 Review. All actions on permit modifications requested or initiated under this section are subject to review under s. 22.

SECTION 24 **24.00 Permit Suspension or Revocation**

24.10 Grounds. [Name of county or municipality] may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in in Section NR 135.25(1), Wisconsin Administrative Code.

24.20 Procedures. If [name of county or municipality] finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in **sub. 25.10**, it may issue a special order suspending or revoking such permit as set forth in **sub. 32.20**.

24.30 Consequences. The consequences of an reclamation permit suspension or revocation order under **sub. 24.20** shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

SECTION 25 **25.00 Annual Operator Reporting.**

25.10 Contents and Deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year optional: to [name and location of administering agency]. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under **sub. 2930. Optional: [specify forms to be used for annual reporting]**.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

25.20 Inspection in Lieu of Report. [Name of county or municipality] may, at its discretion, obtain the information required in **sub. 25.10** by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

25.30 Retention of Annual Reports. Annual reports submitted under this section or inspection records that replace them shall be retained by [name of county or municipality] for at least 10 years after the calendar year to which they apply optional at [location of storage area]. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SECTION 26

26.00 Plan Review Fees.

26.10 Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **sub. 12.30** shall submit a non-refundable plan review fee of [specify dollar amount to equal as closely as possible the county or municipality's costs of examining and approving reclamation plans]. Optional: [Specify street and mailing address where plan review fee should be submitted.] No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of **sub. 12.20** or for any local transportation-related mine issued an automatic permit under **sub. 16.50**. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to **s. 23**.

Note: The prohibition on plan review fees for existing and local transportation-related mines is required under ss. NR 135.23(1)(g) and NR 135.39(5)(a), Wis. Adm. Code.

26.20 Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **sub. 12.30** may obtain expedited reclamation plan review by paying a fee of [specify dollar amount to equal as closely as possible the county or municipality's costs of expedited review of reclamation plans]. Such fee shall be in addition to that required in **sub. 26.10**. Optional: [Specify deadline for action on expedited plan review/permit action].

26.30 Relation to Annual Fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under **s. 27**.

Note: Plan review fees collected under this section are required under s. 295.12(3)(e)1.a. to equal as closely as possible the cost of examination and approval of such plans. Section 295.15, Stats. requires the regulatory authority to use its fees only for the administration of its reclamation ordinance

SECTION 27

27.00 Annual Fees.

27.10 Areas Subject to Fees, Procedures and Deadline. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter to [name of county or municipality]. Optional: [Specify administering agency location and mailing address]. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under **sub. 27.20** and a share for [name of county or municipality] under **sub. 27.30** that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under **s. 29**. Fees shall be paid no later than

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

December 31 before the year for which they apply. **Optional:** [Specify a form to accompany fee payment.]

27.20 Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be \$15.00.

27.30 [Name of County or Municipality]’s Share of Fee. Fees paid under this section shall also include an annual fee due to [name of county or municipality] which shall be [dollar amount to be established on an unreclaimed acre basis, and equal as closely as possible the county or municipal cost of administering the reclamation program - see s. 295.13(3)(e)1. for details]. **Optional:** [Specify street or mailing address for submittal, and a form to accompany payment].

Note: The regulatory authority’s annual fees collected under this subsection are required under s. 295.12(3)(e)1.b. to equal as closely as possible the cost of inspection of nonmetallic mining reclamation. Section 295.15, Stats. requires the regulatory authority to use its fees only for the administration of its reclamation ordinance.

27.40 [Optional] Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee for the following calendar year of [per-acre number to be determined by the county or municipality] if it so chooses to create this option.

27.50 Needed if fee is greater than set out in s. NR 135.39(4)(c), Wis. Adm. Code. **Documentation of Name of County or Municipality’s Share of Fee.** If the annual fee in **sub. 27.30** is greater than that established in Section NR 135.39(4)(c), Wisconsin Administrative Code, [name of county or municipality] shall document in writing its estimated program costs and the need for its annual fees established in **sub 27.30** on or before June 1, 2001. This documentation shall be available for public inspection.

SECTION 28

28.00 Regulatory Reporting and Documentation.

28.10 Reporting. [Name of county or municipality] shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.

28.20 Documentation. [Name of county or municipality] shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency’s audit of [name of county or municipality]’s reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

SECTION 29

29.00 Completed Reclamation - Reporting, Certification and Effect

29.10 Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. **Optional:** [Specify location where certification is to be filed, procedures and any forms to be used].

29.20 Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in **sub. 29.10**.

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – SHORT VERSION

29.30 Certification of Completed Reclamation. [Name of county or municipality] shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with s. 13, [name of county or municipality] shall issue the mine operator a written certificate of completion.

29.40 Effect of Completed Reclamation. If reclamation is certified by [name of county or municipality] as complete under sub. 29.30 for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed under s. 27 for the area so certified.
- (2) The financial assurance required by s. 14 shall be released.

Optional, as authorized by s. NR 135.42(2), Wis. Adm. Code: (3) For sites which are reported as interim reclaimed under sub. 29.20 and so certified under sub. 29.30, financial assurance for reclaiming the certified area shall be [reduced/waived] need to specify which option.

29.50 Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sub. 29.30 for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to [name of county or municipality] for it under s. 27 shall be refunded.

SECTION 30

30.00 Permit Termination. When all final reclamation required by a reclamation plan conforming to s. 13 and required by this chapter is certified as complete pursuant to s. 28, [name of county or municipality] shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

PART V - ENFORCEMENT

SECTION 31

31.00 Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of [name of county or municipality] may inspect any nonmetallic mining site subject to this chapter as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

Note: Under section NR 135.42(1), Wisconsin Administrative Code, persons entering nonmetallic mine sites under this right of inspection shall obtain training and provide their own safety equipment as needed to comply with applicable federal, state and local laws or regulations.

SECTION 32

32.00 Orders and Citations.

32.10 Enforcement Orders. [Name of county or municipality] may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

32.20 Special Orders. [Name of county or municipality] may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining

MODEL NONMETALLIC MINING RECLAMATION ORDINANCE – *SHORT VERSION*

reclamation permit pursuant to **s. 24**, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

32.30 Review of Orders. An order issued under **sub. 32.10** or **sub. 32.20** may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

32.40 Citations. **Optional, and where such authority otherwise exists.** [Name of county or municipality] may issue a citation under s. 66.119, Stats. **optional, where other authority to issue citations exists** and [cite the part of county or municipal ordinance authorizing citation] to collect forfeitures or require any action needed to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **s. 13** and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

32.50 Enforcement. Name of county or municipality may submit any order issued under **s. 32** to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.

SECTION 33

33.00 Penalties. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **s. 13** and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes **optional:** and [Cite section[s] of the county or municipal code or ordinance authorizing these penalties].